

97TH CONGRESS } HOUSE OF REPRESENTATIVES { REPT. 97-
1st Session } 101 Part 1

M-1
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INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1982

MAY 19, 1981.—Ordered to be printed

Mr. BOLAND, from the Permanent Select Committee on Intelligence,
submitted the following

REPORT

[To accompany H.R. 3454]

The Permanent Select Committee on Intelligence, to whom was referred the bill (H.R. 3454) to authorize appropriations for fiscal year 1982 for the intelligence and intelligence-related activities of the United States Government, for the Intelligence Community Staff, and for the Central Intelligence Agency Retirement and Disability System, to authorize supplemental appropriations for fiscal year 1981 for the intelligence and intelligence-related activities of the United States Government, and for other purposes, having considered the same, report favorably thereon and recommend that the bill do pass.

PURPOSE

This bill would:

(1) Authorize appropriations for fiscal year 1982 for (a) intelligence and intelligence-related activities of the U.S. Government, (b) the Intelligence Community Staff, and (c) the Central Intelligence Agency Retirement and Disability System;

(2) Authorize the personnel ceilings on September 3, 1982 for (a) intelligence and intelligence-related activities, and (b) the Intelligence Community Staff;

(3) Authorize supplemental appropriations for fiscal year 1981 for intelligence and intelligence-related activities of the U.S. Government;

(4) Provide authority to the Director of Central Intelligence to pay members of advisory committees at a rate not to exceed the daily equivalent of the rate of pay in effect for grade GS-18;

(5) Provide authority to the Director of Central Intelligence and the Director of the National Security Agency to pay benefits and allowances to certain intelligence personnel comparable to those pro-

tion 1118 would make conduct proscribed by section 112, 878, and 1 of title 18 federal crime offenses when such conduct is directed against section 7 persons in the United States. Offenses which would be covered include assaults, threats, extortion, and kidnapping.

Section 7 persons merit the protection of federal jurisdiction over certain criminal acts directed against them. Such acts may be directed against these persons precisely because of the activities which led to their having been given entry into the United States under the CIA Act, and federal jurisdiction is thus in the national security interest of the United States. It is understood by the Executive Branch and the Committee that federal jurisdiction will be invoked only where there is reason to believe that there is, in fact, a connection between an individual's status as a section 7 person (or the events that gave rise to such status) and the conduct directed against such person.

Subsection (c) amends Chapter 51 of title 18, United States Code, by adding a new section 1119 entitled "Murder, manslaughter, assaults, threats, extortion, or kidnapping of persons present in the United States under intelligence auspices." Persons in the United States under the auspices of departments or agencies within the Intelligence Community generally include foreign nationals whose temporary presence in the United States furthers United States intelligence objectives. This category of individuals could include intelligence sources, members of foreign intelligence services, and foreign nationals working abroad for the United States. According to such persons the protection of federal jurisdiction over certain criminal acts directed against them is in the national security interest of the United States.

Subsection (a) of new section 1119 of title 18 would make the murder, manslaughter, or attempted murder of such individuals a federal crime and would fix punishment for the criminal acts. Subsection (b) of proposed section 1119 would make conduct proscribed by sections 112, 878, and 1201 of title 18 federal criminal offenses when such conduct is directed against a person present in the United States under intelligence auspices. Offenses which would be covered include assaults, threats, extortions, and kidnapping.

TITLE IV—DEFENSE INTELLIGENCE AGENCY PERSONNEL MANAGEMENT

During its authorization hearings, the Committee considered the personnel management systems of the three major components of the intelligence community—CIA, NSA, and DIA—and their impact on the quality of intelligence analysis. It was evident that DIA does not have the same flexibility currently available to CIA and NSA under applicable statutes. As a consequence, DIA has been significantly handicapped in its ability to recruit and reward outstanding analysts and other intelligence specialists and otherwise to operate an effective civilian personnel system. If the benefits of "competitive analysis," a concept which both Administration and the Committee strongly support, are to be realized, it is imperative that DIA have analytical capabilities comparable to its sister agencies. Title VI of the bill responds to this problem by, among other things, exempting DIA from classification provisions of civil

service laws; authorizing DIA to establish a Senior Defense Intelligence Executive Service comparable to the government-wide Senior Executive Service; and giving authority to the Secretary of Defense to terminate any civilian employee of DIA if he deems it advisable in the interests of the United States, notwithstanding the procedures of title 5, U.S. Code.

The Committee believes that title VI would enhance DIA's capabilities to attract and retain high quality personnel in competition with other intelligence agencies. Flexibility to establish additional civilian executive positions would permit the Agency to develop and retain adequate in-house expertise on the broad geographical and topical intelligence interests to meet growing intelligence requirements. Further, through the Senior Defense Intelligence Service, senior executive would be provided incentives for performance and rewarded for excellence. Classification authority would be obtained to permit establishment of compensation based on individual capabilities and ensure timely assignment and utilization of high quality personnel to meet changing emphasis in intelligence interests. DIA would achieve maximum utilization of authorized manpower through enhanced and simplified authorities for termination of employees determined to be unacceptable. Finally, by exempting DIA from certain government-wide disclosure requirements the personnel system could function more effectively and ensure essential protection of national security information.

DIA states that title VI will result in additional costs, the actual amount of which cannot be accurately determined. However, these costs are estimated to be relatively small and will be absorbed within authorized appropriation levels. It is anticipated title VI will be offset by efficiencies to be realized by relief from current cumbersome procedures.

SECTIONAL ANALYSIS

SEC. 601. This section provides that title VI may be cited as the "Defense Intelligence Agency Personnel Management Act of 1981".

SEC. 602. This section amends title 10, United States Code, by adding a new section 1587 which authorizes the Secretary of Defense to establish an integrated civilian personnel management system within the Defense Intelligence Agency (DIA). New section 1587 would accomplish the following:

Subsection (a) authorizes the Secretary of Defense to establish positions, appoint individuals and fix pay in relation to the General Schedule (GS) and Senior Executive Service (SES) rates.

Subsection (b) authorizes the Secretary of Defense to establish a Senior Defense Intelligence Executive Service within the DIA and to pay personnel appointed to it in accordance with the pay prescribed in the Civil Service Reform Act for the Senior Executive Service.

Using its enabling statutory authority, CIA has established an executive service patterned on the Senior Executive Service. DIA and NSA were excluded from provisions of the Senior Executive Service established under the Civil Service Reform Act of 1978. The Committee wishes to note with approval earlier initiatives to secure legislation to authorize NSA to establish a Senior Cryptologic Executive Service. A measure sponsored by Senators Ma-

as, Goldwater, Chafee and Durenberger was reported by the Committee on October 2, 1980 (S. 2216, Senate Rep. No. 96-1014.) No floor action was taken on that bill in the 96th Congress, but renewed efforts are expected in the current Congress.

Subsection (b)(1) authorizes up to 27 positions to be established for the Senior Defense Intelligence Executive Service and to be paid at rates provided for the Senior Executive Service.

Subsection (b)(2) authorizes additional positions for certain professional engineers, scientists and military intelligence analysts to be paid at rates provided for the Senior Executive Service and an oversight provision by which the Secretary of Defense can review the number of positions so established.

Subsection (b)(3) provides the authorization necessary to award ranks to appointees in the Senior Defense Intelligence Executive Service comparable to ranks available to appointees in the Senior Executive Service.

Subsection (b)(4) places limits on the number of ranks allowed during any fiscal year comparable to that for the Senior Executive Service.

Subsection (b)(5) specifies the amount of pay associated with rank awards comparable to that for the Senior Executive Service.

Subsection (b)(6) provides the authorization necessary to grant sabbaticals to appointees in the Senior Defense Intelligence Executive Service to the same extent as is available to appointees in the Senior Executive Service.

Subsection (b)(7) removes the current limitations on accumulation of annual leave for appointees in the Senior Defense Intelligence Executive Service the same as such limitations was removed from appointees in the Senior Executive Service.

Subsection (b)(8) provides for a report to Congress concerning operation under the Senior Defense Intelligence Executive Service.

Subsection (c) authorizes a prevailing rate system of basis compensation for positions in or under which the Agency may employ individuals in a trade, craft or manual labor occupation.

Subsection (d) authorizes additional compensation for employees stationed outside the continental United States or in Alaska at rates not to exceed those authorized by 5 U.S.C. 5941(a).

Subsection (e) would permit DIA to withhold disclosure of information on the organization, function, activities, or personnel appointed except for information required by Congress to accomplish normal functions.

Subsection (f) would authorize the Secretary of Defense to terminate employment of any civilian member whenever he deems such termination necessary or advisable in the interest of the United States. Termination authority may be delegated only to the Deputy Secretary of Defense and the Director, Defense Intelligence Agency. Termination action would be appealable to the Secretary of Defense.

SEC. 603. This section provides for early retirement for those removed from the Senior Defense Intelligence Executive Services for less than fully successful performance, similar to provisions for the retirement of Senior Executive appointees. Those who do not meet the age or service requirements for early retirement would be reassigned to another Senior Executive position or moved to a non-

Senior Defense Intelligence Executive Service Position elsewhere in the Agency at a level equivalent to GS-15.

SEC. 604. This section amends section 2108 of title 5 of the United States Code to exclude from the definition "preference eligible" applicants for, or members of, the Senior Defense Intelligence Executive Service.

SEC. 605. This section amends 5 U.S.C. 5102(a)(1) to remove the Defense Intelligence Agency from the coverage of the General Schedule classification and pay system; amends 5 U.S.C. 5342(a)(1) to remove the Defense Intelligence Agency from the coverage of the Federal Wage System; and amends 5 U.S.C. 7103(a)(3) to expressly exempt the Defense Intelligence Agency by law from coverage under the Labor Management Relations provisions of title 5.

SEC. 606. This section specifies the date on which the provision of title VI will take effect.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

UNITED STATES CODE

TITLE 5—GOVERNMENT ORGANIZATION

PART III—EMPLOYEES

Subpart A—General Provisions

CHAPTER 21—DEFINITIONS

§ 2108. Veteran; disabled veteran; preference eligible

For purposes of this title—

(3) "preference eligible" means, except as provided in paragraph (4) of this section—

but does not include applicants for, or members of, the Senior Executive Service, *the Senior Defense Intelligence Executive Service*, or the General Accounting Office.